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August 2, 2017

Jennifer M. Ardrey
Manager, Indirect Tax
Grant Thornton
171 N. Clark Street; Suite 200
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Re: [REDACTED] - Private Letter Ruling

Dear Jennifer:

I am writing in response to your letter dated April 19, 2017 ("Request") (copy attached), requesting a private letter ruling ("PLR") concerning the application of the Chicago Personal Property Lease Transaction Tax ("Lease Tax"), Chapter 3-32 of the Municipal Code of Chicago ("Code"), to the fees charged by [REDACTED]
[REDACTED]

Based on the facts set forth in your Request, along with our subsequent communications, including the demonstration provided to us on February 17, 2017, we agree with the conclusions set forth in your Request.

This PLR is based on the text of the Lease Tax Ordinance as of the date of this letter and the facts as represented in the Request being true. The opinions contained herein are expressly intended to constitute written advice that may be relied upon pursuant to Code Section 3-4-325.

Very truly yours,

Weston W. Hanscom
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Cc: Joel Flores, Department of Finance



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April 19, 2017

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Re: [REDACTED] Request for Private Letter Ruling

Dear Mr. Hanscom:

On behalf of our client [REDACTED] we respectfully request the issuance of a private letter ruling by the Chicago Department of Law (“Department”).

General Information

1. This PLR is not requested for hypothetical or alternatively proposed transactions, but rather to determine the personal property lease transaction tax (“lease tax”) consequences of actual transactions engaged in by [REDACTED], as described below.
2. [REDACTED] is not currently under audit or engaged in litigation with the Department with regard to this or any other tax matter.
3. The Department has not previously ruled regarding this matter for [REDACTED]. Neither [REDACTED] nor Grant Thornton LLP has submitted the same or similar issue to the Department on behalf of [REDACTED].
4. We are aware of no authority contrary to the authorities referred to and cited below.

Statement of Facts

[REDACTED] provides accounts payable and bill payment automation services for businesses. [REDACTED] is an out-of-state business with customers located throughout the country, including the City of Chicago.

Grant Thornton first contacted the Department on behalf of [REDACTED] with an e-mail in August 2016 detailing the services provided by [REDACTED] and requesting clarification on the application of the lease tax. On January 19, 2017, representatives for Grant Thornton and the Department met to discuss the application of the lease tax to the services provided by [REDACTED]. At that meeting, the Department requested a demonstration of [REDACTED] services, which took place on February 17, 2017. An explanation of the services is outlined below.

Invoice Processing

The [REDACTED] utilizes a web-based module for customers to review and approve invoices and export accounts payable (“A/P”) data back into the customer’s general ledger (“GL”).

[REDACTED] bills for its services per invoice processed.

[REDACTED] provides three primary service levels of invoice processing to its customers. The steps associated with each level of service are described below.

[REDACTED] provides three offerings – Full Service, Self-service, and Mid-level service.

Payment Processing

At the conclusion of the invoice review and approval process, [REDACTED] may provide payment processing services.

At the conclusion of the process, the customer uploads a file and funds [REDACTED]. [REDACTED] then does all the disbursements to the various vendor accounts.

Pertinent Law and Regulations

Chapter 3-32 of the Municipal Code of Chicago imposes the Lease tax. Per Section 030(A), the tax is imposed on “the lease or rental in the city of personal property,” or “the privilege of using in the city personal property that is leased or rented outside the city.” The lessee bears the obligation to pay the tax.

Per Section 030(B), the rate of the tax is 9% unless an exemption in section B.1 applies, in which case the transaction is taxed at a lower rate.

Per Section 030(B.1), nonpossessory lease of a computer where the primary purpose is the use of the lessor’s “computer and software to input, modify or retrieve data or information that is supplied by the customer,” is taxed at a rate of 5.25%.

Per Section 020(I), “nonpossessory lease” is defined as a lease or rental where the use but not possession of the personal property is transferred to the customer. “This includes, but is not limited to, leased time on or use of any and all personal property not otherwise itself rented, such as leased time on or for the use of ...computers, computer software...”

Per Section 020(K), the lease price does not include separately stated optional charges not for the use of personal property.

Per Personal Property Lease Transaction Tax Ruling #12 (July 1, 2015), bundled charges are treated according to the rules set forth in Personal Property Lease Transaction Tax Ruling #3 (June 1, 2004).

Per Personal Property Lease Transaction Tax Ruling #3 (June 1, 2004), when the lessor bundles the taxable and nontaxable charges, the full purchase price is taxable unless it can be clearly proven that at least 50% of the charge is for the nontaxable service.

Personal Property Lease Transaction Tax Ruling #3 (June 1, 2004) also states that “a primary factor in determining whether a separately stated charge is for the use of personal property is whether or not the charge is optional.”

Section 020(K) states that a transfer or service shall be considered optional if the lessee could have obtained the nonpossessory lease from the lessor without the transfer or service.

Per Section 050(A)(10), transactions that facilitate the “deposit, withdrawal, transfer or loan of money or securities, including any related review of accounts or investment options by the account owner” are exempt from the lease tax.

Requested Rulings

1. The charge for invoice processing for self-service customers, is subject to the Chicago lease tax as the provision of a nonpossessory computer lease.
2. The additional amount charged to full service and mid-level service customers, i.e., is related purely to the provision of a nontaxable service and is not subject to the lease tax.
3. Payment processing services are not subject to the lease tax.

Analysis

The charge for invoice processing services is only subject to the lease tax to the extent it is for software as a service (“SaaS”). The portion of the invoice processing fee that is related purely to the provision of a service is separable from the SaaS features and is, therefore, not subject to the lease tax. Based on preliminary discussions with the Department, the fees do not have to be separately stated in order to be exempt. Per Personal Property Lease Transaction Tax Ruling #3 (June 1, 2004), “a primary factor in determining whether a separately stated charge is for the use of personal property is whether or not the charge is optional.” If a customer has a choice to select a less inclusive service for a lower price and still obtain the nonpossessory lease (i.e., the SaaS), the additional charge is considered optional per Chicago Municipal Code Section 3-32-020(K).

The charge for each level of service relates to the SaaS offering and is, therefore, subject to the lease tax. The self-service customers receive minimal services from [REDACTED]. As noted above, self-service customers scan and index all invoices themselves. These customers choose to pay for the use of [REDACTED] online platform.

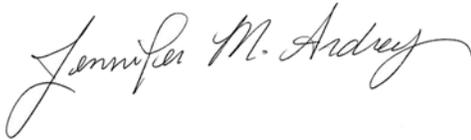
The additional charge for the Mid-Level and Full Service offerings, respectively, are exempt from the lease tax as these amounts are for invoice processing services. [REDACTED] provides Mid-Level and Full Service customers receiving, scanning and indexing services for an additional charge. In other words, customers have an option to pay for an additional level of services. Because the additional charge is optional and is not for the provision of a nonpossessory computer lease (i.e., SaaS), the charge above Self Service is not subject to the lease tax.

Finally, payment processing services provided by [REDACTED] are not subject to the lease tax. Per Chicago Municipal Code Section 3-32-050(A)(10), the lease tax does not apply to charges for the transfer of money. In addition, [REDACTED] payment processing services are not a charge for a nonpossessory lease of a computer and are therefore not subject to lease tax.

If you have any questions or would like to discuss this matter further, please contact me at your convenience at (312) 602-8011.

Respectfully submitted,

GRANT THORNTON LLP



Jennifer M. Ardrey
Manager, Indirect Tax